

NEPA REFERRAL PROCESS

NOTE: Per CEQ regs and EPA's Policy and Procedures, Chapter 9, the entire process outlined below is expected to be completed within 25 days after the FEIS Notice of Availability is published, or no later than 5 days before the end of the comment period, unless Federal Lead Agency grants an extension of the referral period. Note that the *referral period* is not the same as the comment period. At most, we have until 5 days before the ROD is signed.

DAY	WHO	ACTION	CONTENTS	NOTES
0	Federal Lead Agency	Issues Notice of Availability of FEIS		
1	Carter	Fill in this schedule with actual dates. Schedule RA briefing for day 5-9		
5	Kathy	Notify Susan Bromm that R9 has determined that the action meets EU criteria		
5-9	ERO & OFA	<p>Prepare briefing memos for RA and AA, and interim response to Federal Lead Agency</p> <p>Schedule call(s) between Jeff, Jared, Cynthia, and USFS/USDA levels, moving up chain of command.</p>	<p><u>Briefing memo</u></p> <ul style="list-style-type: none"> • Brief description of proposed action • Reason the action is environmentally unsatisfactory • Description of our attempts to resolve differences with Federal Lead Agency • Positions of other affected federal agencies, groups, and public officials • Recommended strategy for resolution of remaining issues <p><u>Interim response to Federal Lead Agency</u> Must state that EPA is considering a referral to CEQ and will request a meeting and time extension of the <i>referral period</i> to allow for a resolution of EPA's concerns.</p>	Phoenix Interim Response was from Enrique to BLM State Director.
10	Kathy	Submit to Jared (from Jeff) and Cynthia (from Susan) the briefing memo and interim response to Federal Lead Agency		WHO SENDS THE "INTERIM RESPONSE TO FEDERAL LEAD AGENCY" TO THE FEDERAL LEAD AGENCY – JARED OR

				CYNTHIA?
Undetermined, but prior to next steps	Kathy	Confirms referral period deadline with Federal Lead Agency	<p>If Federal Lead Agency declines to extend, we proceed according to original schedule, i.e., must refer within 25 days of FEIS Notice of Availability.</p> <p>If Federal Lead Agency extends referral period deadline in writing, we proceed according to that new deadline.</p> <p>If Federal Lead Agency extends referral period via phone call, Kathy must send a letter to Federal Lead Agency to document the agreed upon new deadline.</p>	
Prior to referral deadline	"EPA"	Negotiate with Federal Lead Agency to try to resolve differences.		
NLT 10 days before referral deadline	Susan Bromm	Send short memo to Administrator	<ul style="list-style-type: none"> • Potential referral and status of unresolved issues • Talking points • Outline of Communication Strategy (include talking points for press and congressional) 	Assume ERO will assist with preparation of this memo
Prior to 7 days prior to referral deadline	ERO	Prepare referral package	<ul style="list-style-type: none"> • Action memo to the Administrator (NTE 2 pp) <ul style="list-style-type: none"> ◦ Briefly outlining the proposed action ◦ EPA's concerns ◦ Positions of other affected federal agencies, public interest groups, and Congressional delegations • Communications Strategy (must have been coordinated with HQ AA for External Affairs) • CEQ Referral Package <ul style="list-style-type: none"> ◦ Letter, for the Administrator's signature, to Chair of CEQ, setting forth the basis of EPA's determination ◦ Copy of Lead Agency Referral Package • Lead Agency Referral Package <ul style="list-style-type: none"> ◦ Letter, for the Administrator's signature, to head of Federal Lead Agency, informing of EPA's unsatisfactory determination and the referral to CEQ. Letter should request that no action be taken on the proposed action 	

			<ul style="list-style-type: none"> ○ until CEQ acts on the matter. ○ Detailed comments supporting EPA's "unsatisfactory" conclusion: <ul style="list-style-type: none"> ▪ The unacceptable impacts related to EPA's areas of jurisdiction or expertise ▪ Reasons EPA believes the matter is unsatisfactory ▪ Description of national resources or environmental policies that would be adversely affected ▪ Environmentally preferable alternatives ▪ Agreed-upon facts ▪ Material facts in controversy ▪ Brief review of EPA's attempts to resolve the concerns with Federal Lead Agency 	
Prior to 7 days prior to referral deadline	ERO	Brief Jared and obtain his approval of referral package		
NLT 7 days prior to referral deadline	R9 (DD?)	Submit referral package to Susan Bromm		
NLT 5 days before referral deadline	Susan Bromm	Work with Cynthia to arrange a briefing for the Administrator		
NLT 25 days after FEIS Notice of Availability is published (or by agreed-upon extended deadline)	EPA Administrator	Sign the referral comment letters to Federal Lead Agency and to CEQ		OFA is responsible for hand-carrying the letters to the addressees and ensuring distribution of cc's in accordance with Communication Strategy and/or the distribution requirements in Policy & Procedures,

				Chapter 9, section 6.
--	--	--	--	-----------------------